



**ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VA 22201**

**AGREEMENT NO. 24-DPR-RFP-160s**

THIS AGREEMENT is made, on November 20, 2023, between Fish and Explore, LLC, 2717 Pioneer Lane, Falls church, Virginia 22043 (“Contractor”) a Virginia limited liability company authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia (“County”). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

**1. CONTRACT DOCUMENTS**

The “Contract Documents” consist of:

- This Agreement
  - Exhibit A – Scope of Work
  - Exhibit B – County Nondisclosure and Data Security Agreement (Contractor and Individual)
  - Exhibit C – Contractor Performance Evaluation Form
  - Exhibit E – Camp Submission Form
- Arlington County Request for Proposal No. 24-DPR-RFP-160 is incorporated by reference.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties’ agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the “Contract” or the “Agreement”.

**2. SCOPE OF WORK**

The Contractor agrees to perform the services described in the Contract Documents (the “Work”). As detailed in the “Scope of Work” (Exhibit A), the primary purpose of the Work is to provide specialized and/or recreational summer and/or year-round break camps, on an as-needed basis, to youth ages 3 through 18 at the County’s indoor and outdoor facilities. It will be the Contractor’s responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor’s responsibility to manage the details and execution of the Work.

**3. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

**4. CONTRACT TERM**

The Work will commence on 11/30/2023 and must be completed no later than August 31, 2024 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a bilateral Notice of Renewal, authorize continuation of the Agreement under the same contract prices for not more than four (4) additional 12-month periods, from September 1, 2024 to August 31, 2028 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

**5. PERCENTAGE SPLIT CONTRACT AMOUNT**

The Contract amount is based on a percentage split of the total registration fees charged per participant for camp, including extended care fees, at the resident rate, and before fee reductions ("Registration Fees"). Total registration fees for camp offerings and extended care fees will be determined in accordance with DPR's Fee Resolution and upon mutual agreement between the Contractor and the County. The County will pay the Contractor in accordance with the terms of the Percentage Split and Payment section below for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount"). The County will not compensate the Contractor for any goods or services beyond those included in Exhibit A unless those additional goods or services are covered by a fully executed amendment to this Contract.

The Contract Amount will be determined as follows:

- For programs that use an Arlington County owned/operated facility, the County shall pay the Contractor 70% of the Registration Fees.
- For programs that do not use an Arlington County owned/operated facility, the County shall pay the Contractor an 80% of the Registration Fees.

Fees charged by the County for the non-resident rate and credit card processing fees will not be included in the amount due to the Contractor based on the percentage split outlined above. The County does not pay the Contractor any other sum pursuant to this agreement.

The Contractor will not receive any payments for camps that are canceled by the Contractor or the County. The County will not be responsible for any loss in the Contractor's income or wages due to scheduled maintenance, emergency repairs, inclement weather cancellations, and/or any unforeseen circumstances that require the closure of a County facility.

The County will assess to the Contractor fees incurred by the County on behalf of the Contractor for background checks twice per year in September and March. The County will send an itemized list of these fees to the Contractor by email. For an explanation of the fees charged, please see Background Checks.

The County will invoice the Contractor for fees the County incurs on behalf of the Contractor for replacement of lost security access keys and keycards. The Contractor must pay the invoiced amount within 21 days of receiving the invoice. These fees are \$10 per keycard and \$15 per physical key.

**6. DISCOUNTS AND FEE REDUCTIONS**

- a. **Discounts:** The County will not honor or provide any discounts other than the fee reductions defined below, including, but not limited to, multiple camp, sibling, or early registration.
- b. **Fee Reductions:** In the case of fee reductions pre-approved and processed by the County, the payment due to the Contractor will be calculated based on the Registration Fee percentages above before any County-authorized fee reductions. The County fee reduction policy for DPR can be found via the web at <https://www.arlingtonva.us/Government/Departments/Parks-Recreation/Programs/Fee-Reductions>.

**7. PAYMENT**

The County will pay the Contractor according to the provisions of this section. No later than 21 days after the Contractor's final camp session ends, the Contractor will submit an invoice to the Project Officer. The Project Officer will either approve the invoice or require corrections. The County will pay the Contractor within 45 days after receipt of an approved invoice. All payments will be made from the County to the Contractor via ACH. The number of the County Purchase Order by which services have been performed and unique invoice number must appear on all invoices.

**8. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

**9. NO WAIVER OF RIGHTS**

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

**10. NON-APPROPRIATION**

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia (“Board”). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

**11. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through those contract(s).

**12. COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

**13. BACKGROUND CHECK**

All employees or subcontractors, paid or unpaid, age 18 and older, whom the Contractor assigns to work on this Contract must pass the County’s standard background check. The Contractor is responsible for all costs associated with the background checks and will be invoiced twice per year in September and March.

Arlington County’s Department of Parks and Recreation will conduct the background check for a \$10 fee per background check. In the event additional fees are assessed to the background check as a result of court fees, each provider will be responsible for these fees. Fees will be listed on an invoice to the provider. Failure to abide by this requirement could result in the cancellation of camp programs. The background check will include the four (4) specific topics stated hereinbelow.

- A. Address Trace.
- B. State or County Criminal Record Check.
- C. National Criminal History Database Search.
- D. Sex Offender Registry Search.

The County reserve the right to amend the background check process and requirements at any time in its sole discretion. The Contractor agrees to immediately remove any employee the County determines to be unacceptable. Failure to adhere to the County’s background screening check process shall be grounds for immediate contract termination. In the event, the Contractor has employees whose primary residence is not in the United States the Contractor must provide to the County, at a cost to the Contractor, an equivalent background check performed in the country of the employee’s residence.

The County will provide a listing of staff members to the Contractor indicating if the employee is eligible to work (pass) or ineligible to work (fail), based on the results of the background check. Copies of the full background check

report cannot be provided via Arlington County to the Contractor. Any employee of the Contractor wishing to see the results of the background check may request these directly from the current background check vendor and/or the project officer.

**14. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS**

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its subcontractors' employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or subcontractors identified in its proposal, including the approved Project Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or subcontractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification, including identification of the proposed replacement and his or her qualifications.

If the approved Project Manager must be absent for an extended period, the Contractor must provide an interim Project Manager, subject to the County's written approval.

If the approved Project Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

**15. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

**16. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

**17. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

**18. SEXUAL HARASSMENT POLICY**

If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the Contractor's employee handbook.

**19. SAFETY**

The Contractor must ensure that it and its employees and subcontractors comply with all applicable local, state and federal policies, regulations and standards relating to safety and health.

**20. TERMINATION**

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

**21. INDEMNIFICATION**

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected

with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**22. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**23. COPYRIGHT**

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

**24. OWNERSHIP OF WORK PRODUCT**

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All work product, in any form, that results from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the work product for any purpose other than performance of this Contract without the written consent of the County.



The work product is confidential, and the Contractor may neither release the work product nor share its contents. The Contractor will refer all inquiries regarding the status of any work product to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties. The provisions of this section will survive any termination or cancellation of this Contract.

**25. DATA SECURITY AND PROTECTION**

The Contractor will hold County Information, as defined below, in the strictest confidence and will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted information received from or created or maintained on behalf of the County. For purposes of this provision, and as more fully described in this Contract and in the County's Non-Disclosure and Data Security Agreement (NDA), "County Information" includes, but is not limited to, electronic information; documents; data; images; financial records; personally identifiable information; personal health information (PHI); personnel, educational, voting, registration, tax and assessment records; information related to public safety; County networked resources; and County databases, software and security measures that are created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) **County's Non-Disclosure and Data Security Agreement.** The Contractor and its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or subcontractors working on-site at County facilities or otherwise performing any work under this Contract) must sign the NDA (Exhibit B) before performing any work or obtaining or permitting access to County networked resources, application systems or databases. The Contractor will make copies of the signed NDAs available to the County Project Officer upon request.
- (b) **Use of Data.** The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees. Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.
- (c) **Data Protection.** The Contractor will protect the County's Information according to standards established by federal law and Commonwealth of Virginia statutes including but not limited to the Government Data Collection and Dissemination Practices Act, Chapter 38 of Title 2.2 of the Code of Virginia (§ 2.2-3800 and 2.2-3803), Administration of systems including personal information; Internet privacy policy; exceptions, Code of Virginia, § 2.2-3803, and the Virginia Freedom of Information Act § 2.2-3700, et seq., and will adhere to industry best practices including the National Institute of Standards and Technology (NIST) SP 800-53 Security and Privacy Controls for Information Systems and Organizations and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data and proprietary or confidential information. The Contractor must provide to the County a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s). If requested by the County, the Contractor must

also provide annually the results of an internal Information Security Risk Assessment provided by an outside firm.

- (d) **Security Requirements.** The Contractor must maintain the most up-to-date anti-virus programs, industry-accepted firewalls and other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact with or store County Information meet the above standards and industry best practices for physical, network and system security requirements. Devices (laptops, mobile phones, printers, copiers, fax machines, or similar) that store County Data utilize encryption. The County's Chief Information Security Officer or designee must approve any deviation from these standards. The downloading of County information onto devices, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.
- (e) **Conclusion of Contract.** Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, return all County Information to the County in a format defined by the County Project Officer. The County may request that the Information be destroyed. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its subcontractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (f) **Notification of Security Incidents.** The Contractor must notify the County Chief Information Officer and County Project Officer within 24 hours of the discovery of any intended or unintended access to or use or disclosure of County Information.
- (g) **Subcontractors.** If subcontractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the subcontractor. If the subcontractor will have access to County Information, each subcontractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

## **26. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## **27. COUNTY EMPLOYEES**

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

**28. FORCE MAJEURE**

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract, provided that the affected party gives notice to the other party as soon as practicable after the force majeure event, including reasonable detail and the expected duration of the event's effect on the party.

**29. AUTHORITY TO TRANSACT BUSINESS**

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

**30. RELATION TO COUNTY**

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

**31. ANTITRUST**

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

**32. REPORT STANDARDS**

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

**33. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

The Purchasing Agent may require the Contractor to demonstrate that it has the necessary facilities, ability, and financial resources to comply with the Contract and furnish the service, material or goods specified herein in a satisfactory manner at any time during the term of this Contract.

**34. ASSIGNMENT**

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

**35. AMENDMENTS**

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

**36. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

**37. DISPUTE RESOLUTION**

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

**38. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

**39. ARBITRATION**

No claim arising under or related to this Contract may be subject to arbitration.

**40. NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

**41. NO WAIVER**

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

**42. SEVERABILITY**

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

**43. ATTORNEY'S FEES**

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

**44. SURVIVAL OF TERMS**

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY’S FEES, AND DATA SECURITY AND PROTECTION.

**45. HEADINGS**

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections’ scope.

**46. AMBIGUITIES**

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

**47. NOTICES**

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

**TO THE CONTRACTOR:**

John Lipetz, Director  
Fish and Explore, LLC  
2717 Pioneer Ln.  
Falls Church, VA 22043  
Phone: (703) 215-1066  
Email: [jdlipetz@fishandexplore.com](mailto:jdlipetz@fishandexplore.com)

**TO THE COUNTY:**

Kathryn “Katie” Salyers, Project Officer  
DPR-Spec Countywide Sports and Classes  
3700 S Four Mile Run  
Arlington, Virginia 22206  
Phone: (703) 228-1856  
Email: [ksalyers@arlingtonva.us](mailto:ksalyers@arlingtonva.us)

**AND**

Dr. Sharon T. Lewis, LL.M, MPS, VCO, CPPB  
Purchasing Agent  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 22201  
Phone: (703) 228-3294  
Email: [slewis1@arlingtonva.us](mailto:slewis1@arlingtonva.us)

**TO COUNTY MANAGER’S OFFICE (FOR PROJECT CLAIMS):**

Mark Schwartz, County Manager

Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 318  
Arlington, Virginia 22201

**48. ARLINGTON COUNTY BUSINESS LICENSES**

The Contractor must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060, or e-mail [business@arlingtonva.us](mailto:business@arlingtonva.us).

**49. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**50. LIMITED ENGLISH PROFICIENCY**

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract’s scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

**51. ACCESSIBILITY OF WEB SITE**

If any work performed under this Contract results in the design, development or maintenance of or responsibility for the content or format of any County web sites or for the County’s presence on third-party web sites, the Contractor must perform such work in compliance with ADA.

**52. ADA COMPLIANCE**

The Contractor is solely responsible for its compliance with the Americans with Disabilities Act (ADA) and must defend and hold the County harmless from any expense or liability arising from the Contractor’s non-compliance. The Contractor also must respond promptly to and cooperate fully with all inquiries from the U.S. Department of Labor.

The Contractor’s responsibilities related to ADA compliance include, but are not limited to, the following:

- a. Access to Programs, Services and Facilities: The Contractor must ensure that its programs, services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor must provide equivalent services in an accessible alternate location or manner.
- b. Effective Communication: Upon request from the participant/guardian, the Contractor, must provide appropriate communication aids and services so that qualified persons with disabilities can participate equally in the Contractor’s programs, services and activities. Communication aids and services can include, but are not limited to, qualified sign language interpreters, Braille documents and other means of facilitating communications with people who have speech, hearing or vision impairments.
- c. Modifications to Policies and Procedures: The Contractor must modify its policies and procedures as necessary to ensure that people with disabilities have an equal opportunity to enjoy the Contractor’s programs, services and activities. For example, individuals’ service animals must be allowed in the Contractor’s offices or facilities, even if pets are generally prohibited.

- d. No Extra Charges: The Contractor may not charge a person with a disability or any group of individuals with disabilities to cover the cost of providing aids or services or of reasonable modifications to policies and procedures.
- e. Operation: All camps must be operated in full accordance with the ADA.
- f. Communication with the Department of Parks and Recreation Therapeutic Recreation Office (DPR-TR) regarding contractors ADA Title III compliance.
  - 1. Communicate directly with those requesting special assistance and modification requests.
    - i. Any participants who have requested support through DPR will be identified on rosters provided by DPR and information will be placed in their online digital forms profile.
    - ii. If the Contractor would like a consultation with providing a modification, then they may contact the DPR-TR. <http://arlingtonparks.us/tr-inclusion/contact-us/http://arlingtonparks.us/tr-inclusion/contact-us/>
  - 2. Designate a staff member for ADA and/or inclusion support-related needs.
    - i. Designated staff member is responsible for reviewing rosters and supporting documents in advance and when provided in online digital forms profile as related to a camper's recommended program modifications.
    - ii. Designated staff member is responsible for completing additional paperwork, as requested when communicating with DPR-TR regarding ADA or inclusion support related needs.
    - iii. Designated staff member is responsible for implementing any recommendations provided by DPR-TR.
    - iv. Contact Information: Ensure that the designated staff member's contact information is always current and valid.
  - 3. DPR-TR will provide access to inclusion website with guides to providing inclusion support and general recommendations for camps. [Arlington County TR Inclusion \(arlingtonparks.us\)](http://arlingtonparks.us)
  - 4. Contractor shall attend specific trainings, as provided, by Arlington County DPR related to program access and inclusion.
  - 5. Acknowledge that the DPR-TR is the final arbiter of what support and resources may be offered to the Contractor.

### **53. INSURANCE REQUIREMENTS**

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$500,000/500,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).

- d. Sexual Abuse and Molestation - \$500,000 per occurrence, with \$1,000,000 annual aggregate.
- e. Miscellaneous Errors and Omissions - \$1 million per occurrence/claim.
- f. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be listed as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- g. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- h. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- i. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County’s acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor’s insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

#### **54. CONTRACTOR PERFORMANCE EVALUATION**

Arlington County will perform written evaluations of the Contractor’s performance at various intervals throughout the term of this Contract. The evaluations will address, at a minimum, the Contractor’s work/performance, quality,



cost controls, schedule, timeliness and sub-contractor management. The Project Officer shall be responsible for completing the evaluations and providing a copy to the Contractor and County Procurement Officer.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA

FISH AND EXPLORE, LLC

AUTHORIZED DocuSigned by:  
SIGNATURE: Tomeka D. Price  
5950D4E0ACC0472...

AUTHORIZED DocuSigned by:  
SIGNATURE: John Lipetz  
CDC2B693131B469...

NAME: Tomeka D. Price

NAME: John Lipetz

TITLE: Procurement officer

TITLE: Director

DATE: 11/30/2023

DATE: 11/27/2023

**EXHIBIT A**  
**SCOPE OF SERVICES**

The Contractor will work with the DPR Program Specialist to provide summer and/or break camp programs for the residents of Arlington County. The Contractor will provide camps at Arlington County locations, the Contractor's place of business, or other County-approved off-site location(s), and camps may be held indoors or outdoors. The Contractor must obtain prior approval for any off-site locations.

The Contractor must adhere to all state and local guidelines relating to licensed camp programs and communicate all licensing needs directly through the County Project Officer. The County Project officer will support obtaining any necessary documentation in support of licensing requirements.

The Contractor must adhere to the Arlington Department of Parks and Recreation (DPR) Summer Camp Manual for Contracted Camps.

The Contractor must adhere to the Virginia State Code's requirements regarding [Barrier Crimes](#) for working with children and must not provide a staff member at any program under this Contract any person who has been convicted of or whom the Contractor knows to be under investigation for one or more of the following offenses::

- i. **Sex Offenses: All sex offenses** regardless of the amount of time since offense. Examples include child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure, etc.
- ii. **Felonies: All felony violence** regardless of the amount of time since offense. Examples Include: murder, manslaughter, aggravated assault, kidnaping, robbery, aggravated burglary, etc. **All felony offenses other than violence or sex offenses** within the past 10 years. Examples include drug offenses, theft, child endangerment, etc.
- iii. **Misdemeanors: All misdemeanor violence offenses** within the past 7 years. Examples include simple assault, battery, domestic violence, hit and run, etc. **All misdemeanor drug offenses** within the past 5 years. Examples include simple drug possession, possession of drug paraphernalia, etc. **All misdemeanor traffic offenses** within the last 5 years. Examples include driving under the influence, driving while intoxicated etc., and if the Contractor's program is responsible for transportation of adults and/or children, additional reckless driving, excessive speed, etc. **Any other misdemeanor within** the past 5 years that would be considered a potential danger to children or is directly related to the functions of that staff/volunteer. Examples include contributing to the delinquency of a minor, providing alcohol to a minor, etc.

**1. CAMP SUBMISSION PROCESS AND FACILITY ALLOCATION**

During the camp submission process, DPR will provide the Contractor a camp submission form (Exhibit E) via email. The Contractor must submit the fully completed camp submission form by the given deadline. The camp submission form details a list of camps that the Contractor would like to offer for the designated season with the space requirements needed for the camp(s) and preferred location(s). Preferred locations are not guaranteed but are considered when offering camp spaces to Contractors.

**2. TRAININGS AND MEETINGS**

The Contractor will be responsible for staff training and obtaining mandatory certifications, as detailed in the Scope of Work (i.e., CPR/First Aid, Medication Administration Training-Independent Study (MAT-IS), Medication Administration Training-Diabetes (MAT-D)), etc.). The Contractor is solely responsible for expenses related to staff trainings and mandatory certifications. At times, Arlington County may host mandatory meetings for all

Contractors. These meetings/trainings will include current and relevant information, such as seasonal camp submission updates, inclusion basics, and more. If a meeting is identified as mandatory, a Contractor representative must attend. If a Contractor representative cannot attend, arrangements must be made by the Contractor with the County Project Officer to review content discussed.

**3. PROGRAM OFFERINGS**

At a minimum, the County offers the following camp programs:

- A. Classic Camps
  - Traditional Day Camps
  
- B. Visual & Performing Arts
  - Art
  - Dance
  - Music
  - Sewing
  - Theatre/Drama
  
- C. Specialty & Exploration
  - Business
  - Chess
  - Computer Programming
  - Engineering
  - Foreign Language
  - Gaming
  - Robotics
  - Science
  
- D. Nature, Adventure & History
  - Biking (i.e., Bike Tours, Mountain Biking, BMX, etc.)
  - Canoeing
  - Fishing
  - Kayaking
  - Orienteering/Wilderness
  - Rock Climbing (Indoors)
  - Ropes/Course Challenge
  - Sailing
  
- E. Cooking & Wellness
  - Cooking
  - Healthy habits
  
- F. Sports
  - Baseball
  - Basketball
  - Biking
  - Cheerleading
  - eSports
  - Fencing

- Field Hockey
- Flag Football
- Football
- Golf
- Lacrosse
- Martial Arts
- Multi-Sport
- Roller Hockey
- Skating (i.e.: In-Line Skating, Skateboarding, etc.)
- Soccer
- Softball
- Sports Training
- Table Tennis
- Tennis/Racquet Sports
- Pickleball
- Ultimate Frisbee
- Volleyball

The County reserves the right to add additional camps not listed above and may require the Contractor to provide the additional camps.

#### **4. DPR SUMMER CAMP CATALOG**

The Contractor will provide camp information per the County's template (Exhibit E) for the Arlington County Department of Parks and Recreation Summer Camp Catalog and will review and provide edits to the listings as needed.

#### **5. FEE SETTING**

The County will work with the Contractor to set camp fees within the ranges of the County Board Adopted Fee Resolution, to include registration fees, extended care fees, supply fees, and any other costs. Camp fees will be approved in the fall, prior to the next calendar year's camp season. Failure to agree upon camp fees may result in the camp not being administered during the following summer and/or school breaks. The County will charge a surcharge of 15% to campers who do not meet the same residency requirements outlined in the [Fee Reductions](#). Residents are considered those who live, go to school in Arlington County or are dependents of an Arlington County Employee.

#### **6. REGISTRATION**

##### **COUNTY RESPONSIBILITIES:**

The County will provide registration for all camp programs through Arlington's web-based registration system. This includes but is not limited to:

- Processing all fee reductions and handling any customer service issues dealing with registration. The fee reduction policy can be found at: <https://www.arlingtonva.us/Government/Departments/Parks-Recreation/Programs/Fee-Reductions>.
- Providing digital access to camper information records within 30 days of the start of registration via ePACT (or similar platform).
- Providing the Contractor with electronic camp rosters 14 days and 7 days prior to the camp's start date. The Contractor may request additional rosters at any time after registration begins; the County will provide the requested rosters within 5 business days.
- Providing refunds for camps canceled in accordance with the [DPR refund policy](#).

- When listed as an offering for the camp program, the Contractor will operate before or after care sessions regardless of enrollment in extended care. If no campers are enrolled, the before and after care option can be cancelled beginning 14 days prior to the session start date.
- Canceling any camps that do not meet minimum enrollment requirements 14 days prior to the camp's start date. The County will notify participants by email.
- Notifying camp participants via email of any camps canceled due to low enrollment.
- Calculating Registration Fees due to the Contractor based on the final camp roster. Final camp rosters are run on the last day of the session (e.g., Friday for a one-week session) or individual offering date (for one-day programs).

**CONTRACTOR RESPONSIBILITIES:**

- Respond to any inquiries from the County or camp registrants within 48 hours by email or phone.
- Work with the Program Coordinator to provide any specific camp registration requirements, to include forms, additional questions, or requests.
- Communicate directly with those requesting special assistance and modification requests. Participants who have requested support will be identified on digital camper information records provided by DPR.
- Ensure all campers have required paperwork completed prior to being admitted to the program for the day. If the emergency record reflects as incomplete in ePACT (or similar County system), the Contractor will collect a signed emergency record from the parent and submit to DPR for uploading.

**7. POSTPONEMENT, RESCHEDULING, CANCELLATIONS, & REFUNDS**

If the original camp site becomes unavailable for any reason, up to 48 hours before the camp start date, the County's Project Officer will try to find an alternative location where the Contractor can deliver the program services. If a situation arises mid-week, the Project Officer will try to find an alternative space to relocate the camp that same week. The Contractor will move any equipment and program supplies necessary to operate the camp. Moving of equipment must not impact camp hours or operations and must be coordinated with the Project Officer. The Contractor will operate camps for all agreed-upon hours and camp services if an alternate location is secured. If no alternate location is available, the County will postpone or cancel the remainder of the camp until an available alternate location can be secured.

Should maintenance be required at a County facility in which a program is to be held or is currently in progress, the County reserves the right to relocate the program to an alternate County facility, or upon agreement, the Contractor's place of business or other off-site location. The County will determine the best course of action to provide facility maintenance to County locations with minimal impact on the Contractor's ability to provide camp services. Whenever possible, County staff will provide at least 30 days' notice to the Contractor for any scheduled maintenance.

Inclement weather may alter available camp program spaces. If inclement weather requires field closures or creates unsafe outdoor conditions, outdoor spaces may become unavailable. If indoor spaces have been allocated these should be utilized during inclement weather with modified program activities. The County and the Contractor will collaborate to explore all possibilities for relocation or modification before cancelling camp for the day, but if no indoor space has been allocated, the County may unilaterally cancel the program.

**8. GENERAL CAMP OPERATIONS**

The Contractor and its staff must meet the following requirements for all camp operations.

- A. Operate all camps in full accordance with the [Arlington Department of Parks and Recreation \(DPR\) Summer Camp Manual for Contracted Camps](#).

- B. A minimum of two staff members must be present on site when campers are present.
- C. Provide all equipment and supplies, such as athletic equipment, first aid equipment, portable water coolers, drinking cups, video equipment/technology, t-shirts, and awards (if appropriate) for all campers.
- D. Obtain prior approval from the DPR Camp Coordinator to conduct alternative activities to the camp description, which may be done only in rare circumstances.
- E. Disclose any sales of food/snacks/drinks/etc. to the DPR Camp Coordinator prior to the start of the camp.
- F. Adhere to all facility rules and regulations, including direction provided from on-site facility staff.
- G. Remove each day all equipment and/or supplies for each camp as there is limited storage space and overnight storage is not guaranteed.
- H. Ensure that the camp will comply with all licensing and copyright regulations related to musical performances, if applicable, and be responsible for all necessary fees required by American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music (BMI), and Society of European Stage Authors and Composers (SESAC).
- I. Submit all client complaints via email to the DPR Camp Coordinator within 48 hours of the issue occurring and assist with any investigation conducted.
- J. Repair and replace equipment belonging to the County or Arlington Public Schools (APS) that is damaged, destroyed, or broken by any of the campers or the Contractor's staff.
- K. Replace any lost or stolen County or APS property issued to the Contractor for use in the camp. The County will determine and send the Contractor an itemized invoice for acceptable replacement items.

## 9. RECORDS/REPORTS

The Contractor shall:

- A. Submit an updated Certificate of Insurance to the DPR Camp Coordinator prior to the camp season, as detailed in the Contract.
  - 1. For Summer Camp Only providers the deadline is June 1
  - 2. For Year- Round Break Camp providers, the deadline is August 1.
- B. Maintain records of updated staff information in hard copy on site or accessible electronically. Staff information must include:
  - 1. Staff Name
  - 2. Staff Role at Camp (i.e., director/lead or support staff or volunteer)
  - 3. Birthday
  - 4. Phone Number (or Contact Number)
  - 5. Background Check Status
  - 6. Training & Certifications (First Aid/CPR/MAT)
- C. Upon request from the County, provide the documents listed below via e-mail or postal mail to the DPR Camp Coordinator within two days of request:
  - 1. Completed Background Checks
  - 2. CPR/First Aid certification cards
  - 3. MAT Certification Certificate
  - 4. Staff birthdates
- D. Use a sign-in/sign-out sheet for all participants each day the camp operates. If the Contractor creates the sign-in sheet, the following information must be included: participant names, the date of the camp, the name of the camp, and the Contractor's name, phone number, and e-mail address. The Contractor may instead choose to use the digital sign-in sheet in ePact.
- E. If the Contractor requires supplemental waivers for its camp, it is the Contractor's responsibility to maintain an accurate record and copy of all original signed waivers in accordance with any federal, state, or local records and retention guidelines.

## 10. STAFFING REQUIREMENTS

The Contractor must comply with the following staffing requirements:

- A. Provide staff-to-participant ratios no less than those listed in the [Arlington Department of Parks and Recreation \(DPR\) Summer Camp Manual for Contracted Camps](#).
- B. Provide personnel certified adult and child CPR/First Aid.
  - Each camp location is required to have a minimum of one staff member who always holds an active adult and child CPR/First Aid certification on site during program hours.
  - Certified personnel must complete adult and child CPR and First Aid certifications at least one week prior to the camp start date.
  - The DPR Camp Coordinator may request proof of certifications at any time, and the Contractor must provide copies of the certifications to the DPR camp Coordinator within two calendar days.
- C. Provide personnel certified to administer medication to participants as needed.
  - Each camp location is required to have a minimum of one staff member who always have at least one staff member with an active MAT certification on site during program hours. The certified personnel must complete an active Medication Administration Training (MAT) certification at least one week prior to the respective camp start date.
  - The DPR Camp Coordinator may request proof of certifications at any time, and the Contractor must provide copies of the certifications to the DPR Camp Coordinator within two calendar days.
- D. Provide a full staffing list at least one week prior to the start of the program outlining the staff members, their ages, and their position types. Substitute staff members do not need to be included on this listing; however, when substitute staffing is utilized, it is the responsibility of the Contractor to ensure that appropriate staff members are on site as required.
- E. Provide email and phone number contact information for the on-site camp director for each camp program no later than one week prior to the start of the program.
- F. Provide on-site directors meeting the following criteria:
  - Must be at least 21 years of age.
  - Must be on-site at all times of the camp's operation.
  - Must have training and a minimum of one year of experience working with youth in a childcare or recreation program environment.
- G. Provide staff leadership meeting the following criteria:
  - Must be at least 18 years of age.
  - Must have training and a minimum of three months of experience working with youth in a childcare or recreation program environment.
- H. Contractors may have staff members younger than 18 years of age; however, minor staff member cannot be left alone with camp participants, and staff under the age of 18 do not count towards participant ratios.

## 11. POST-CAMP

The Contractor must remain in good standing throughout the term of the Contract with Arlington County by obtaining an average of good ratings from County site visits and customer satisfaction surveys. Customer satisfaction surveys are revised annually by the County. The County will provide the Contractor a copy of the customer satisfaction survey prior to the first day of camp.

- A. All camp programs must be evaluated by program participants and/or parents/guardians of program participants.
- B. The Contractor will receive survey results for their camps at the end of the summer season. Should DPR receive a negative comment regarding a camp at any time, DPR will notify the Contractor so potential issues can be addressed.

**12. PROGRAM EVALUATION**

The County will evaluate the Contractors on an annual basis. The forms used for evaluation are included in the [Arlington Department of Parks and Recreation \(DPR\) Summer Camp Manual for Contracted Camps](#).

**13. PROGRAM MARKETING**

The County will promote the programs in applicable marketing materials dependent upon the camp season. The Arlington County Summer Camp Catalog is posted on the County website and the camp registration site and also is distributed in hard copy. All other break camp offerings are posted on the County website and the camp registration site. Supplemental marketing flyers and materials will be distributed through relevant County and APS divisions.



**EXHIBIT B**  
**NONDISCLOSURE AND DATA SECURITY AGREEMENT**  
**(CONTRACTOR)**

The undersigned, an authorized agent of the Contractor and on behalf of Fish and Explore, LLC (“Contractor”), hereby agrees that the Contractor will hold County-provided information, documents, data, images, records and the like confidential and secure and protect them against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers and property as well as information that the County shares with the Contractor for testing, support, conversion or other services provided under Arlington County Agreement No. 24-DPR-RFP-160s (the “Project” or “Main Agreement”) or that may be accessed through other County-owned or -controlled databases (all of the above collectively referred to as “County Information” or “Information”).

In addition to the DATA SECURITY obligations set in the County Agreement, the Contractor agrees that it will maintain the privacy and security of County Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual, including, but not limited to, his/her (“his”) Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or anything that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of County information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Project. The Contractor acknowledges that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its work on the Project. The Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate and tightly controlled and that such person/s also maintain the security and privacy of County Information and the integrity of County-networked resources.

Contractor agrees to take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. Any device or media on which County Information is stored, even temporarily, will have strict encryption, security, and access control. Any County Information that is accessible will not leave Contractor’s work site or the County’s physical facility, if the Contractor is working onsite, without written authorization of the County Project Officer. If remote access or other media storage is authorized, the Contractor is responsible for the security of such storage device or paper files.

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network, are secure and free of all computer viruses, and

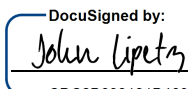
running the latest version of an industry-standard virus protection program. The Contractor will ensure that all user accounts and passwords used by its employees or subcontractors are robust, protected and not shared. The Contractor will not download any County Information except as agreed to by the parties and then only onto a County-approved device. The Contractor understands that downloading onto a personally owned device or service, such as personal e-mail, Dropbox, etc., is prohibited.

Contractor agrees that it will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County’s or Contractor’s security policies, or any other breach of Project protocols concerning data security or County Information. The Contractor will fully cooperate with the County to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees to promptly notify others of a suspected or actual breach if requested.

The Contractor agrees that all duties and obligations enumerated in this Agreement also extend to its employees, agents or subcontractors who are given access to County information. Breach of any of the above conditions by Contractor’s employees, agents or subcontractors shall be treated as a breach by the Contractor. The Contractor agrees that it shall take all reasonable measures to ensure that its employees, agents and subcontractors are aware of and abide by the terms and conditions of this agreement and related data security provisions in the Main Agreement.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the Contractor has the highest level of administrative safeguards, information security, disaster recovery and other best practices in place to ensure confidentiality, protection, privacy and security of County information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *NonDisclosure and Data Security Agreement* conflicts with the Main Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

At the conclusion of the Project, the Contractor agrees to return all County Information to the County Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the Main Agreement.

Authorized Signature:  \_\_\_\_\_  
CDC2B693131B469...  
Printed Name and Title: John Lipetz Director \_\_\_\_\_

Date: 11/27/2023 \_\_\_\_\_

**NONDISCLOSURE AND DATA SECURITY AGREEMENT**  
**(INDIVIDUAL)**

I, the undersigned, agree that I will hold County-provided information, documents, data, images, records and the like confidential and secure and protect it against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers, and property as well as information that the County shares with my employer or prime contractor for testing, support, conversion or the provision of other services under Arlington County Agreement No. 24-DPR-RFP-160s (the "Project" or "Main Agreement") or which may be accessed through County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

I agree that I will maintain the privacy and security of County Information and will not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized to do so by the County Project Officer. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, or that otherwise affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

I agree that I will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly authorized and associated with my designated duties on the Project. I understand and agree that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal law/s, subjecting me and/or my employer to civil and/or criminal penalties.

I also agree that I will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person for any purpose of the Information obtained directly, or indirectly, as a result of my work on the Project. I agree to view, retrieve or access County Information only to the extent concomitant with my assigned duties on the Project and only in accordance with the County's and my employer's access and security policies or protocols.

I agree that I will take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. I will also ensure that any device or media on which County Information is stored, even temporarily, will have strict encryption, security, and access control and that I will not remove, facilitate the removal of or cause any Information to be removed from my employer's worksite or the County's physical facility without written authorization of the County Project Officer. If so authorized, I understand that I am responsible for the security of the electronic equipment or paper files on which the Information is stored and agree to promptly return such Information upon request.

I will not use any devices, laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices ("Device") during my work on the Project without pre-approval. I will ensure that any Device connected to the County network is free of all computer viruses and running the latest version of an industry-standard virus protection program. I will also ensure that my user account and password, if any, is robust, protected and not shared. I will not download any County Information except as authorized by the County Project Officer and then only onto a County-approved

Device. I understand that downloading onto a personally owned Device or service, such as personal e-mail, Dropbox etc., is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. I will fully cooperate with the County to help regain possession of any County Information and to prevent its further disclosure, use or dissemination.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the highest level of administrative safeguards, information security, and other best practices are in place to ensure confidentiality, protection, privacy and security of County Information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *NonDisclosure and Data Security Agreement* conflicts with the underlying Main Agreement or any local, state or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

Upon completion or termination of my work on the Project, I agree to return all County Information to the County Project Officer. I understand that this agreement remains in full force and effect throughout my work on the Project and shall survive my reassignment from the Project, termination of the above referenced Project or my departure from my current employer.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed:

Contractor's Project Manager: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT**

**EXHIBIT C**  
**CONTRACTOR PERFORMANCE EVALUATION FORM**

**ARLINGTON COUNTY GOVERNMENT**  
**Contractor Performance Evaluation Form**

Contractor Name: \_\_\_\_\_ Contract No.: \_\_\_\_\_

Date: \_\_\_\_\_ Project/Contract Name: \_\_\_\_\_

Interim Evaluation \_\_\_\_ Final Evaluation \_\_\_\_

Scope of Work/Services Provided:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract Start Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Contract End Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Actual Completion Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Please rate the effectiveness of the Contractor’s performance on the Contract/Project across the following dimensions:

Evaluation Criteria: Unacceptable Poor Satisfactory Excellent

Written comments to explain assigned ratings are required for any performance ratings below “satisfactory” or an “excellent” in any category.

Evaluation Questions

1. Quality of Workmanship

Rate the quality of the Contractor’s workmanship. Were there quality-related or workmanship problems on the Contract? Was the Contractor responsive to remedial work required?

\_\_\_\_ Unacceptable      \_\_\_\_ Poor      \_\_\_\_ Satisfactory      \_\_\_\_ Excellent      \_\_\_\_ N/A

2. Problem Solving and Decision Making

Rate the Contractor’s ability to provide effective and creative problem solving, coordination and fair decision making on Contract/Project.

\_\_\_\_ Unacceptable      \_\_\_\_ Poor      \_\_\_\_ Satisfactory      \_\_\_\_ Excellent      \_\_\_\_ N/A

3. Project Schedule

Rate the Contractor's performance with regard to adhering to contract schedules. Did the Contractor meet the contract schedule, or the schedule as revised by approved change orders? If not was the delay attributable to the Contractor?

Unacceptable       Poor       Satisfactory       Excellent       N/A

4. Subcontractor Management

Rate the Contractor's ability, effort and success in managing and coordinating subcontractors (if no subcontractors rate the Contractor's overall project management). Was the Contractor able to effectively resolve problems?

Unacceptable       Poor       Satisfactory       Excellent       N/A

5. Safety

Rate the Contractor's safety procedures on this Contract/Project? Were there any OSHA violations or serious safety accidents?

Unacceptable       Poor       Satisfactory       Excellent       N/A

6. Environmental Compliance

Did the Contractor comply with local, state, and federal environmental standards in the performance of the Contract? Did the Contractor comply in good faith with local erosion and sedimentation control requirements and/or any Stormwater Pollution Prevention Plan?

Unacceptable       Poor       Satisfactory       Excellent       N/A

7. Change Orders

Did the Contractor unreasonably claim change orders or extras? Were the Contractor's prices on change orders and extra work reasonable?

Unacceptable       Poor       Satisfactory       Excellent       N/A

8. Paperwork Processing

Rate this Contractor's performance in completing and submitting required project paperwork (i.e. change orders, submittal, drawings, invoices, workforce reports, etc.) Did the Contractor submit the required paperwork promptly and in proper form?

Unacceptable       Poor       Satisfactory       Excellent       N/A

9. Supervisory Personnel

Rate the general performance of this Contractor's supervisory personnel. Did they have the knowledge, management skills and experience to run a project of this size and scope?

Unacceptable       Poor       Satisfactory       Excellent       N/A

10. Expertise, Knowledge and Experience

Rate this Contractor's personnel. Were they dedicated, experienced and qualified for the duration of project.

\_\_\_ Unacceptable      \_\_\_ Poor      \_\_\_ Satisfactory      \_\_\_ Excellent      \_\_\_ N/A

11. Project/Contract Closeout

Rate the Contractor's performance on timeliness and quality of closeout deliverables such as As-Built Drawings, Operation and Maintenance Manuals, and training. Did the Contractor complete the tasks or Project on schedule; was the punch list completed within the allotted time?

\_\_\_ Unacceptable      \_\_\_ Poor      \_\_\_ Satisfactory      \_\_\_ Excellent      \_\_\_ N/A

12. Level of Overall Performance

\_\_\_ Unacceptable      \_\_\_ Poor      \_\_\_ Satisfactory      \_\_\_ Excellent      \_\_\_ N/A

Based on these comments, would you recommend this Contractor for comparable work in the future?

Yes       No

Please provide any comments regarding the Contractor's performance or the quality of its work. The Contractor can also provide any comments or clarification on the evaluation in the box below.

(Project Officer or Contractor, use additional sheets, if Necessary):

Signatures and Certifications:

1. The information contained in this evaluation form represents, to the best of my knowledge, a true and accurate analysis of the Contractor’s performance record on this Contract; and,
2. The contents on the evaluation form and the ratings were not negotiated with the Contractor or its representative for any reason.

Evaluator’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Evaluator’s (PjO) Printed Name \_\_\_\_\_ Evaluator’s Title: \_\_\_\_\_

Contractor’s signature below acknowledges receipt and the opportunity to respond:

Contractor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

EVALUATION RATINGS DEFINITIONS

Rating	Definition	Notes
Excellent	Performance meets contractual requirements and exceeds many to the County’s benefit. The contractual performance of the element or sub-element being evaluated was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.	To justify an Exceptional rating, identify multiple significant events and state how they were of benefit to the County. A singular benefit, however, could be of such magnitude that it alone constitutes an Exceptional rating. Also, there should have been NO significant weaknesses identified.
Satisfactory	Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the contractor appear or were satisfactory.	To justify a Satisfactory rating, there should have been only minor problems, or major problems the contractor recovered from without impact to the contract/order. There should have been NO significant weaknesses identified. A fundamental principle of assigning ratings is that contractors will not be evaluated with a rating lower than Satisfactory solely for not performing beyond the requirements of the contract/order.
Poor	Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being evaluated reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor’s proposed actions appear only marginally effective or were not fully implemented.	To justify poor performance, identify a significant event in each category that the contractor had trouble overcoming and state how it impacted the County. A poor rating should be supported by referencing the management tool that notified the contractor of the contractual deficiency (e.g., management, quality, safety, or environmental deficiency report or letter).



Unacceptable	Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains a serious problem(s) for which the contractor's corrective actions appear or were ineffective.	To justify an Unsatisfactory rating, identify multiple significant events in each category that the contractor had trouble overcoming and state how it impacted the County. A singular problem, however, could be of such serious magnitude that it alone constitutes an unsatisfactory rating. An Unsatisfactory rating should be supported by referencing the management tools used to notify the contractor of the contractual deficiencies (e.g., management, quality, safety, or environmental deficiency reports, or letters).
Not Applicable (N/A)	N/A (not applicable) should be used if the ratings are not going to be applied to a particular area for evaluation.	

END